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No. 121, Original

In The

Supreme Court of the United States

October Term, 1994

STATE OF LOUISIANA,

Plaintiff,

vs.

STATE OF MISSISSIPPI, et al.,

Defendants.

Before The Honorable Vincent L. McKusick

MOTION OF THE HOUSTON DEFENDANTS FOR LEAVE TO FILE SUPPLEMENTAL ANSWER AND SUPPLEMENTAL ANSWER

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7 pp

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Julia Donelson Ehrhardt, formerly Julia Donelson Houston, Ruth Houston Baker and Hines H. Baker, Co-Executors and Co-Trustees of the Estate of George T. Houston, a/k/a George T. Houston, III, deceased, and Ruth Houston Baker, individually, (collectively the "Houston Defendants") respectfully file this Motion for Leave to File Supplemental Answer to Louisiana's Complaint herein.

1. Pursuant to leave of this Court, Louisiana filed this original action on November 1, 1993. The Houston Defendants filed their Answer on December 1, 1993. Thereafter, this case was referred to the Honorable Vincent L. McKusick, Special Master.

2. This case involves, among other things, a dispute between Louisiana and the Houston Defendants regarding the Houston Defendants' title to real property, which title may be traced to a federal land patent effective 1881 issued to the Houston Defendants' predecessor in title.

3. Louisiana first challenged the validity of that federal land patent in its July 26, 1994 trial brief filed with the Special Master. Prior to that time, the patent had not been challenged and the Houston Defendants were unaware that Louisiana intended to do so.

4. On August 8, 1994, the Houston Defendants forwarded their Supplemental Answer to the Special Master. The Supplemental Answer asserts, as an affirmative defense, that Louisiana's challenge to the land patent is time-barred due to the passage of more than 100 years since the issuance of the patent.

5. On August 10, 1994, the Special Master instructed the Houston Defendants to apply to the Supreme Court for leave to file the Supplemental Answer.

6. Neither Mississippi nor Louisiana has any objection to the filing of the Supplemental Answer. The Houston Defendants could not assert the affirmative defense earlier because they did not know that Louisiana intended to challenge the validity of the federal land patent.

WHEREFORE, The Houston Defendants respectfully seek leave to file their Supplemental Answer to

Louisiana's Complaint, said Supplemental Answer to be in the form attached.

Respectfully submitted,

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SUPPLEMENTAL ANSWER OF THE HOUSTON DEFENDANTS

COME NOW Julia Donelson Ehrhardt, formerly Julia Donelson Houston, Ruth Houston Baker and Hines H. Baker, Co-Executors and Co-Trustees of the Estate of George T. Houston, a/k/a George T. Houston, III, deceased, and Ruth Houston Baker, individually, (collectively the "Houston Defendants") and file this Supplemental Answer to the Complaint filed by the State of Louisiana ("Louisiana"). This Supplemental Answer is filed in addition to, and not in lieu of, the Answer previously filed by the Houston Defendants. This Supplemental Answer does not supersede the Houston Defendants' prior pleadings herein.

By way of Supplemental Answer, the Houston Defendants plead the following affirmative defense in addition to their answer and defenses pleaded previously:

SEVENTH AFFIRMATIVE DEFENSE

Louisiana's challenge to the validity of the federal land patent issued to Stephen B. Blackwell, coming more than 100 years after the issuance of the patent, is stale and time-barred.

WHEREFORE, the Houston Defendants pray:

1. That the boundary between the State of Louisiana and the State of Mississippi be fixed, recognized, and determined and that the landmass known as Stack Island (also referred to in these proceedings as the "Disputed Area") be held to be within the territorial boundaries of the State of Mississippi;

2. that the prayer for relief contained in Louisiana's complaint be otherwise denied and that the claim of the Houston Defendants to Stack Island/Disputed Area be quieted against the State of Louisiana;

3. that all costs incurred in this original action be assessed against the State of Louisiana; and

4. that the Houston Defendants have and recover such other and further relief as they may be shown justly entitled to receive.

Respectfully submitted,

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